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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,843	01/17/2001	Hironobu Ishida	2091-0230P-SP	4586
2292	7590	05/07/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			DUONG, THOMAS	
			ART UNIT	PAPER NUMBER
			2143	5

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/760,843

Applicant(s)

ISHIDA, HIRONOBU

Examiner

Thomas Duong

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Objections

2. Claims 6 and 22 are objected to because of the following informalities:
 - "any on" (line 2, *claims 6 and 22*) is misspelled. Please make the appropriate correction.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 9-10 and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Arias (US005724514).
5. With regard to claims 1, 9 and 17, Arias reference discloses,
- *measuring a transfer rate of the network at the time the client requests transfer of image data sets from the server; and* (Arias, col.3, lines 45-49; col.4, lines 14-18, lines 26-29; col.6, lines 51-55; module 248, fig.7A)
 - *determining the number of the image data sets to be sent to the client in response to the transfer request, based on the transfer rate and a permitted transfer time determined in advance.* (Arias, col.4, lines 14-18, lines 29-31; col.6, lines 55-59; fig.7A-7C; Arias teaches that the requested data objects can be obtained either sequentially (i.e. one at a time) or concurrently (i.e. more than one at a time) after comparing the measured transfer rate to a predetermined threshold)
6. With regard to claims 2, 10 and 18, Arias reference discloses,
- *further comprising the step of transferring the image data sets whose number has been determined from the server to the client.* (Arias, col.9, lines 48-54; col.10, lines 47-55; fig.7B-7C)

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-8, 11-16 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arias (US005724514) and in view of Mogul et al. (US006243761B1).
9. With regard to claims 3, 11 and 19, Arias reference discloses the invention substantially as claimed,

See *claims 2, 10 and 18* rejection as detailed above.

However, Arias reference does not explicitly disclose,

- *wherein the step of transferring is the step of transferring the image data sets whose number has been determined from the server to the client, based on priority of the image data sets whose transfer is requested.*

Mogul teaches,

- *wherein the step of transferring is the step of transferring the image data sets whose number has been determined from the server to the client, based on priority of the image data sets whose transfer is requested. (Mogul, col.10, lines 59-65)*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Mogul reference with Arias reference to optimally send the requested data objects to the client in a reasonable amount of time by transferring the portions with higher priority first, reducing the size, resolution or number of colors of a graphic image, reducing the frame rate of a video data, or reducing the sampling rate of an audio data.

10. With regard to claims 4-5, 8, 12-13, 16, 20-21 and 24, Arias reference discloses the invention substantially as claimed,

See *claims 2, 10 and 18* rejection as detailed above.

However, Arias reference does not explicitly disclose,

- *further comprising the step of transferring, from the server to the client, low volume data sets of a remaining portion of the requested image data sets excluding the image data sets whose transfer from the server to the client has been determined.*
- *further comprising the step of transferring from the server to the client, in the case where transfer of the image data sets corresponding to the low volume data sets is requested, the image data sets corresponding to the low volume data sets whose transfer is requested.*
- *wherein the image data sets are thumbnail image data for displaying, on the client, thumbnail images comprising images represented by the image data sets.*

Mogul teaches,

- *further comprising the step of transferring, from the server to the client, low volume data sets of a remaining portion of the requested image data sets excluding the image data sets whose transfer from the server to the client has been determined. (Mogul, col.5, lines 46-66; col.10, lines 59-65)*
- *further comprising the step of transferring from the server to the client, in the case where transfer of the image data sets corresponding to the low volume data sets is requested, the image data sets corresponding to the low volume data sets whose transfer is requested. (Mogul, col.5, lines 46-66; col.10, lines 59-65)*

- *wherein the image data sets are thumbnail image data for displaying, on the client, thumbnail images comprising images represented by the image data sets.*

(Mogul, col.5, lines 46-66; col.10, lines 59-65)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Mogul reference with Arias reference to optimally send the requested data objects to the client in a reasonable amount of time by transferring the portions with higher priority first, reducing the size, resolution or number of colors of a graphic image, reducing the frame rate of a video data, reducing the sampling rate of an audio data, or perhaps substituting a very small “thumbnail” image instead of the full image.

11. With regard to claims 6-7, 14-15 and 22-23, Arias reference discloses the invention substantially as claimed,

See *claims 1, 9 and 17* rejection as detailed above.

Furthermore, Arias reference discloses,

- *further comprising the step of transferring to the client a message notifying that the number of the image data sets to be transferred is 0 in the case where the number of the image data sets to be transferred has been determined to be 0.*
(Arias, col.4, lines 14-18, lines 29-31; col.6, lines 55-59; fig.7A-7C; Arias teaches that the requested data objects can be obtained either sequentially (i.e. one at a time) or concurrently (i.e. more than one at a time) after comparing the measured transfer rate to a predetermined threshold)
- *further comprising the step of transferring information representing the transfer rate to the client.* (Arias, col.3, lines 45-49; col.4, lines 14-18, lines 26-29; col.6, lines 51-55; module 248, fig.7A)

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Behfar et al. (US006510467B1)
- Soloway et al. (US004901277)
- Kunz (US006223221B1)
- Ginzburg et al. (US006078919A)
- Santoro et al. (US006724403B1)
- Ogdon et al. (US006161137A)
- Miller et al. (US005920701A)


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 703/305-1886. The examiner can normally be reached on M-F 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703/308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-3900.

Thomas Duong (AU2143)

April 28, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100